

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/EP2004/008254	International filing date (day/month/year) 23.07.2004	Priority date (day/month/year) 19.08.2003
International Patent Classification (IPC) or national classification and IPC B65D85/52, A23L1/212		
Applicant UNILEVER N.V.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand 24.12.2004	Date of completion of this report 04.11.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Fournier, J Telephone No. +31 70 340-	



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/008254

Box No. 1 Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-9 as originally filed

Claims, Numbers

1-8 as originally filed

Drawings, Sheets

1/2-2/2 as originally filed

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing *(specify)*:
- ☐ any table(s) related to sequence listing *(specify)*:

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing *(specify)*:
- ☐ any table(s) related to sequence listing *(specify)*:

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/008254

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	5 8
	No: Claims	1-4 6 7
Inventive step (IS)	Yes: Claims	5
	No: Claims	1-4 6-8
Industrial applicability (IA)	Yes: Claims	1-8
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Re Item V.

- 1 The following documents are referred to in this communication:

D1 : US 2003/024163 A1

D2: EP-A-1 186 541

D3: US-B-6 257 403

2 INDEPENDENT CLAIM 1

- 2.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses a package (12) which contains several, at least two, components (2) which are meant for the preparation of a meal. This wording is the wording used in this international application to define a meal kit, see description, page 1, lines 26-28. Thus, D1 discloses a meal kit.

Moreover, D1 discloses a meal kit comprising at least two separate items, the two separate items being two separate plants, see figures of D1. One of them consists of a living edible plant provided with roots (see paragraph [34]), which roots are in effective contact with a moisture donating source.

As all the technical features of D1 are known from D1, the subject-matter of this claim is not new.

3 DEPENDENT CLAIMS 2-4, 6-7

Dependent claims 2-4, 6-7 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty (Article 33(2)).

4 DEPENDENT CLAIM 5

The combination of the features of dependent claim 5 is neither known from, nor rendered obvious by, the available prior art.

5 INDEPENDENT CLAIM 8

- 5.1** The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 8 does not involve an inventive step in the sense of Article 33(3) PCT.

Claim 8 relates to a method suited for prolonging freshness of a living, edible plant which is packed in a meal kit with at least one other meal ingredient or component. Such meal kits are known in the prior art, see for example D2 or D3. A plant as defined in claim 8 is also known from D1. Choosing to incorporate the package disclosed in document D1 in a meal kit known from the prior art cannot be considered as involving an inventive step. This activity only relates to the choice of a known item to make a meal kit.